

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MAILED

SEP 26 2006

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte AVI J. ASHKENAZI, KEVIN P. BAKER, DAVID BOTSTEIN,  
LUC DESNOYERS, DAN L. EATON, NAPOLEONE FERRARA, SHERMAN FONG,  
HANSPETER GERBER, MARY E. GERRITSEN, AUDREY GODDARD,  
PAUL J. GODOWSKI, J. CHRISTOPHER GRIMALDI, AUSTIN L. GURNEY,  
IVAR J. KIJAVIN, MARY A. NAPIER, JAMES PAN, NICHOLAS F. PAONI,  
MARGARET ANN ROY, TIMOTHY A. STEWART, DANIEL TUMAS,  
COLIN K. WATANABE, P. MICKEY WILLIAMS,  
WILLIAM I. WOOD and ZEMIN ZHANG

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Application No. 09/997,573

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on September 25, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On April 24, 2006, the examiner mailed an examiner's answer. In the Grounds of Rejection section, paragraph (9), of the examiner's answer, references were applied to the statement of

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rejections but were not listed in the Evidence Relied Upon section, paragraph (8). Before further review, the examiner must submit a revised examiner's answer that will include in the Evidence Relied Upon section, the list of references mentioned in the statement of rejections. See Manual of Patent Examining Procedure § 1207.02. Appropriate correction is required.

Also, the Information Disclosure Statement dated May 31, 2002, was not considered by the Primary Examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.97 and 1.98. A written communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

**ORDERED** that this application be returned to the examiner for: 1) the issuance of a revised Examiner's Answer, having the missing references listed under the Evidence Relied Upon section, paragraph (8); 2) for consideration of the Information Disclosure Statement dated May 31, 2002; 3) written communication to appellants of such consideration; and 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

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Deputy Chief Appeals Administrator  
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Application No. 09/997,573

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